TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 206 - HB 1066

April 17, 2019

SUMMARY OF ORIGINAL BILL: Establishes that the statistical report required of the Tennessee Alcoholic Beverage Commission (ABC) must be made available on the ABC website, rather than made available to any person filing a written request for a copy of such report.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (008455): Deletes all language after the enacting clause. Creates the definition of "performing arts limited service theater," thereby creating a new license type for which establishments may be issued. Establishes that initial and annual renewal of such license shall cost $2,000. Deletes the current requirement, that prior to engaging in the manufacturing of intoxicants, a business must first pay a privilege tax of $1,000 to the state and the county or municipality, as applicable, in which the manufacturing plant is located; and that a license must be issued by the Department of Revenue (DOR) and the respective county legislative body which authorizes such manufacturing business within the boundaries of such county.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – $17,100/FY19-20 and Subsequent Years/General Fund
Net Impact – $1,900/FY19-20/ABC Fund
Net Impact – $1,000/FY20-21 and Subsequent Years/ABC Fund

Forgone State Revenue – Exceeds $1,000/FY19-20 and Subsequent Years/ General Fund

Increase Local Revenue – $15,000/FY19-20 and Subsequent Years/Permissive

Forgone Local Revenue – Exceeds $1,000/FY19-20 and Subsequent Years

Assumptions for the bill as amended:

- It is assumed that this legislation has been brought forth particularly for the Third Coast Comedy Club (Club); however, two additional establishments, Improv Chattanooga and the Actors Bridge in Nashville, are expected to purchase the license upon passage of this legislation.
- Based on information provided by the Tennessee Alcoholic Beverage Commission (ABC), neither the establishment in Chattanooga nor the establishment in Nashville currently hold a liquor-by-the-drink license from the ABC.
- For purposes of estimation, it is assumed that this new license type will only be issued to these three establishments.
- The Club currently pays $5,000 per year as a limited service restaurant license.
- There is an initial application fee of $300 and a $2,000 annual fee payable to the ABC.
- No additional personnel or resources will be required by the ABC.
- A net increase state revenue of $1,900 {[($300 + $2,000) x 3 establishments] - $5,000} in FY19-20.
- A recurring net increase in state revenue of $1,000 [($2,000 x 3 establishments) - $5,000] beginning in FY20-21.
- It is assumed that a transition from a limited service restaurant to a performing arts limited service theater will have no impact on current sales of alcoholic beverages at the Club; therefore, no significant impact on liquor-by-the-drink tax revenue, state and local sales tax revenue, or wholesale tax revenue attributable solely to the Club.
- Local privilege tax the Club is assumed to be identical to that of a limited service restaurant; therefore, no significant impact on local privilege tax revenue.
- The two additional performing arts limited service theater licensees, respectively, in Chattanooga and Nashville will result in additional state and local sales and use tax and LBD tax revenue.
- It is assumed that Hamilton County and Davidson County each levy a $1,500 alcoholic beverage privilege tax.
- State and local sales taxes and a 15.0 percent liquor-by-the-drink (LBD) tax will be assessed on alcoholic beverage sales.
- The current state sales tax rate is 7.0 percent; the local option sales tax rates in Hamilton County and Davidson County are 2.25 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- Pursuant to Tenn. Code Ann. § 57-4-306(a), 50.0 percent of the 15.0 percent LBD tax is allocated to the state General Fund and 50.0 percent is distributed to the local government.
- It is assumed that the establishment will begin selling alcoholic beverages in FY19-20.
- Based on the interquartile average of 2018 LBD tax returns and assuming reasonable growth rates in LBD tax collections, the average taxable base per establishment is estimated to be approximately $120,000 per year.
- Given current limitations on the availability of LBD sales data by venue type and size, it is assumed that there are three venue-type categories: smaller than average; average; and larger than average. For the purpose of estimating the tax base for entities authorized to conduct LBD sales pursuant to legislation, the following ratios relative to the average

LBD taxable base for all sized entities are utilized: 50 percent for smaller than average; 100 percent for average; and 150 percent for larger than average.

- Given the size of these particular venues, the recurring increase in sales is estimated to be 50 percent of the average taxable base, or $60,000 per establishment per year.
- The recurring increase in state revenue to the General Fund is estimated to be $17,096 {2 x [($60,000 x 7.0%) – ($60,000 x 7.0% x 3.617%) + ($60,000 x 15.0% x 50.0%)]}.
- The recurring increase in local revenue is estimated to be $15,004 {2 x [$1,500 + ($60,000 x 2.25%) + ($60,000 x 7.0% x 3.617%) + ($60,000 x 15.0% x 50.0%)]}.
- Any revenue collected from any state or local taxes imposed on manufacturers or wholesalers is estimated to be not significant.
- According to the DOR, there have been varying levels of compliance with Tenn. Code Ann. § 57-2-102, among the various types of alcohol manufacturers. For example, distilleries have generally paid the tax to the state, while other types of manufacturers generally have not.
- The DOR recently became aware of this situation while preparing alcohol manufacturer accounts for conversion to the new tax system, TNTAP.
- Those manufacturers who have been paying the tax have generally done so on an annual basis. The Department collected $65,312 in FY17-18 from this tax. The extent to which local governments have been collecting this tax is unknown.
- The DOR interprets the statute as requiring the $1,000 privilege tax to be paid once, not annually.
- In the absence of this legislation, the DOR would no longer collect the tax annually from licensees; therefore, this legislation is estimated to result in no decrease in state tax revenue. However, there will be state and local forgone revenue, as newly licensed manufacturers will no longer need to pay such one-time privilege tax.
- It is assumed that there will be at least one new licensed manufacturer in the state per year; therefore, recurring state forgone revenue estimated to exceed $1,000 and recurring local forgone revenue estimated to exceed $1,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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